

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 01/19/01?
- b. The request was received on 01/18/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC-60a/b and Letter Requesting Dispute Resolution dated 01/09/02
 - b. UB-92s
 - c. EOBs
 - d. Reimbursement data (EOB reimbursement log and EOBs from other carriers)
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC-60a/b and Response to a Request for Dispute Resolution dated 04/10/02
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The Commission's case file contains the provider's request for dispute resolution. The Carrier's responses were received by the Commission on 03/22/02 and 04/11/02. The provider's 14 day response was received by the Commission on 04/16/02. All documentation will be reviewed. The Commission's case file does not contain documentation that the carrier received the provider's 14 day response per Commission Rule 133.307 (g)(4).

III. PARTIES' POSITIONS

1. Requestor: Letter dated 01/09/02
 - a. "The (Carrier) failed to provide any documentation as to how their purported concept of "fair and reasonable" was derived or to comply with the definition as stated in TWCC Rule 133.1(a)(8). Payment was completely denied for items coded in accordance with the Health Care Financing Administration Procedure Coding System (HCPCS) codes without further explanation. This is an attempt by the (Carrier) to supersede the Commission's authority and rules."
2. Respondent: Letter dated 04/10/02
 - a. "This dispute concerns reimbursement for outpatient surgery. Carrier's position is that the bill has been paid at a fair and reasonable rate, in accordance with TWCC Medical Fee Guidelines, Commission policy, and the Texas Labor Code."

IV. FINDINGS

1. Based on Commission Rule 133.307 (d) (1-2), the only date of service eligible for review is 01/19/01.
2. The provider billed a total of \$2,420.07 on date of service 01/19/01.
3. The carrier reimbursed a total of \$891.98. The Carrier's EOB has the denial "M – NO MAR" which results in a dispute of "fair and reasonable" reimbursement.
4. The total amount in dispute is \$1528.09, the difference between the billed amount and the reimbursement received.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The provider has submitted reimbursement data to document what they consider fair and reasonable reimbursement. The provider has submitted EOBs from other carriers, these indicate that the provider has accepted from 68% to 100% of the billed amount as fair and reasonable reimbursement. The prevailing CPT code on these EOBs is 62289, which is the same as the date of service in dispute. The provider's documentation does provide some evidence of fair and reasonable reimbursement.

The Carrier has also submitted reimbursement data to document what they consider fair and reasonable reimbursement, and to comply with Commission Rule 133.304 (i)(1-4). The carrier compares the amount of reimbursement the provider received with the amount of reimbursement the Medical Fee Guidelines allow a hospital for inpatient surgery. The carrier also compares their reimbursement with that allowed by Medicare. The carrier has submitted their methodology and though, the entire methodology may not necessarily be concurred in by the Medical Review Division, the requirements of the referenced Rule have been met.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine based on the parties' submission of information, which party has provided the more persuasive evidence. Both parties to the dispute have submitted documentation in support of their position. However, the carrier's documentation is more persuasive and meets the requirement of Sec. 413.011(d) of the Texas Labor Code, "to achieve effective medical cost control." Therefore, no additional reimbursement is recommended.

The above Findings and Decision are hereby issued this 17th day of April 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division